BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.18043 of 2023

V.Mahendhiran ... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Commercial Taxes & Registration Department,
Fort St.George, Secretariat,
Chennai-600 009.

2.The Principal Secretary/Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The Joint Commissioner (ST),
Madurai Division,
Madurai. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to consider the representation, dated 15.03.2023 for issue re-fixing the pay of monetary benefits in the cadre of Deputy Commissioner on par with the petitioner's junior Tmt.D.Ramadevi with effect from 30.12.2005 to 31.07.2018 in the light of the G.O.(D).No.159, Commercial Taxes and Registration (E2)

Department, dated 16.07.2018 and follow the judgment rendered by the High Court in W.P(MD)No.7135 of 2009, dated 24.02.2017 within a time frame.

For Petitioner : Mr.Satheesh Murugan

For Respondents : Mr.M.Prakash
Additional Government Pleader

ORDER

The present writ petition has been filed seeking direction to the 1st respondent to consider the representation, dated 15.03.2023 for re-fixing the pay of monetary benefits in the cadre of Deputy Commissioner on par with the petitioner's junior Tmt.D.Ramadevi with effect from 30.12.2005 to 31.07.2018 in the light of the G.O.(D).No.159, Commercial Taxes and Registration (E2) Department, dated 16.07.2018 and follow the judgment rendered by the High Court in W.P(MD)No.7135 of 2009, dated 24.02.2017 within a time frame.

2. The petitioner was appointed as Assistant Commercial Tax Officer on 18.04.1990 through the Tamil Nadu Public Service Commission. He got promotion as Deputy Commercial Tax Officer on 10.08.2001. He was further promoted as Commercial Tax Officer on 15.03.2007. While so, the post of Commercial Tax Officer was re-designated as Assistant Commissioner of

Commercial Taxes vide G.O.Ms.No.71, dated 30.07.2008. The petitioner has completed 33 years of service. The 1st respondent preferred a panel for promotional list, dated 22.08.2009 for the post of Deputy Commissioner of Commercial Tax.

3. In the meanwhile, the Department issued three charge memos invoking disciplinary proceedings against the petitioner. However, the petitioner challenged the said charges by filing W.P(MD)No.7135 of 2009 before this Court and this Court on 24.02.2017 quashed all those charges and further directed the respondents to promote the petitioner as a Deputy Commissioner from the date of promotion of his junior with all monetary and attendant benefits within a period of 12 weeks from the date of receipt of the order passed by this Court. Based on the order of this Court, the 1st respondent issued G.O.Ms.No.63, dated 11.06.2018 with respect to the promotion of the cadre of Deputy Commissioner and inter-se-seniority was fixed to the petitioner in between the senior one Latha and junior one Ramadevi and the seniority number of the petitioner was fixed as SI.No.1-A. However, the details as to monetary and attendant benefits were not elaborated in the said G.O.

4. The 1st respondent partially complied with the direction of the High Court and without complying with the directions with respect to re-fixing of the payment of monetary benefit in the cadre of Deputy Commissioner on par with the petitioner's junior one Ramadevi with effect from 31.07.2018. Thereafter, the petitioner was promoted to the cadre of Appellate Deputy Commissioner of commercial taxes, Chennai-III on 16.07.2018. The petitioner gave a representation on 13.08.2018 to the Chairman, Tamil Nadu Sales Tax Appellate Tribunal, Chennai for the purpose of fixing his cadre to the inter-se-seniority by assigning SI.No.1-A with effect from 01.01.2010. That was not considered. The petitioner further made another representation on 13.09.2022 to the 3rd respondent for giving monetary and attendant benefits with effect from 30.12.2015 as per G.O.Ms.No.63, dated 11.06.2018 and G.O.Ms.No.442, dated 21.12.2005. Lastly, on 15.03.2023, the petitioner made another representation to the 1st respondent through proper channel seeking re-fixation of salary on par with his junior Ramadevi and pay fixation arrears with effect from 30.12.2015. The same was also not considered. Hence, this writ petition came to be filed.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

6. In view of the same, this Court directs the 1st respondent to consider the petitioner's representation, dated 15.03.2023 for re-fixing the pay of monetary benefits in the cadre of Deputy Commissioner on par with the petitioner's junior Tmt.D.Ramadevi with effect from 30.12.2005 to 31.07.2018 in the light of the G.O.(D).No.159, Commercial Taxes and Registration (E2) Department, dated 16.07.2018, following the judgment rendered by this Court in W.P(MD)No.7135 of 2009, dated 24.02.2017. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. In view of the above said observations, this Writ Petition stands disposed of. No costs.

26.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To

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2.The Principal Secretary/Commissioner
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3.The Joint Commissioner (ST),
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L.VICTORIA GOWRI, J.

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